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EXAMINER
CHAO, MICHAEL W

ART UNIT	PAPER NUMBER
2442	

NOTIFICATION DATE	DELIVERY MODE
02/03/2010	ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

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Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE <u>3</u> MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.
- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
  Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on <u>06 January 2010</u>.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) <u>1-17</u> is/are pending in the application.

    4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) <u>1-17</u> is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

    a)☐ All b)☐ Some * c)☐ None of:

        1.☐ Certified copies of the priority documents have been received.

        2.☐ Certified copies of the priority documents have been received in Application No. _____.

        3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

    * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1)☒ Notice of References Cited (PTO-892)

2)☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3)☐ Information Disclosure Statement(s) (PTO/SB/08)
    Paper No(s)/Mail Date _____.

4)☐ Interview Summary (PTO-413)
    Paper No(s)/Mail Date. _____.

5)☐ Notice of Informal Patent Application

6)☐ Other: _____.

1   **DETAILED ACTION**

2   ***Continued Examination Under 37 CFR 1.114***

3   A request for continued examination under 37 CFR 1.114, including the fee set

4   forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this

5   application is eligible for continued examination under 37 CFR 1.114, and the fee set

6   forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action

7   has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on

8   11/18/2009 has been entered.

9   Claims 1-17 are pending.

10

11   ***Response to Arguments***

12   Applicant's arguments, see page 6, filed 11/18/2009, with respect to the

13   rejection(s) of claim(s) 1, 4, 7-9 and 15 under 35 U.S.C. 103(a) Benveniste et al. in view

14   of Shankar et al. have been fully considered and are persuasive. Benviniste in view of

15   Shankar do not disclose a predetermined maximum authorized bit rate value for packets

16   of initialization messages. Therefore, the rejection has been withdrawn. However, upon

17   further consideration, a new ground(s) of rejection is made in view of Richmond et al.

18   (US 6,990,592) in view of, Ghys (US 7,076,039).

19   Further arguments (pages 8 and 9) are dependent upon the above persuasive

20   argument and are similarly persuasive. Though certain references are still utilized in the

21   rejection of dependent claims, no further arguments were directed toward them and

22   they are therefore not addressed specifically.

1

2   *Claim Rejections - 35 USC § 112*

3   The following is a quotation of the first paragraph of 35 U.S.C. 112:

4   The specification shall contain a written description of the invention, and of the manner and process of
5   making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the
6   art to which it pertains, or with which it is most nearly connected, to make and use the same and shall
7   set forth the best mode contemplated by the inventor of carrying out his invention.
8
9   Claims 1-17 rejected under 35 U.S.C. 112, first paragraph, as failing to comply

10   with the written description requirement. The claim(s) contains subject matter which

11   was not described in the specification in such a way as to reasonably convey to one

12   skilled in the relevant art that the inventor(s), at the time the application was filed, had

13   possession of the claimed invention. See [1] below.

14

15   The following is a quotation of the second paragraph of 35 U.S.C. 112:

16   The specification shall conclude with one or more claims particularly pointing out and distinctly
17   claiming the subject matter which the applicant regards as his invention.
18
19   Claims 1-17 rejected under 35 U.S.C. 112, second paragraph, as being indefinite

20   for failing to particularly point out and distinctly claim the subject matter which applicant

21   regards as the invention. See [1] below. For the purposes of examination the limitation "a

22   plurality of packets of an initialization message" has been interpreted as "a plurality of

23   initialization message packets".

24   Claim 1-17 recite the limitation "a plurality of packets of an initialization message"

25   in lines 5-6. There is insufficient antecedent basis for this limitation in the claim. See [1]

26   below.

27

1   **1 (From above):** Claims 1 and 8 recite "a plurality of packets of an initialization

2   message" which necessitates that a singular initialization message comprise multiple

3   packets. Though the initialization message is stated to include setting up, modifying and

4   closing session messages (page 1 line 13); SIP (page 1 line 17) as known in the art

5   uses only a single packet for a single message. Therefore, the claims requirement that

6   an initialization message be transmitted using a plurality of packets appears erroneous.

7   Further, support for this limitation in the specification, on page 5 line 24 recites that

8   "these SIP messages are transmitted in packet mode, i.e. in the form of a plurality of

9   packets." Thus there is a mapping of multiple SIP messages to multiple packets rather

10   than a singular SIP message to a plurality of packets.

11

12   *Claim Rejections - 35 USC § 103*

13   The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all

14   obviousness rejections set forth in this Office action:

15   (a) A patent may not be obtained though the invention is not identically disclosed or described as set
16   forth in section 102 of this title, if the differences between the subject matter sought to be patented and
17   the prior art are such that the subject matter as a whole would have been obvious at the time the
18   invention was made to a person having ordinary skill in the art to which said subject matter pertains.
19   Patentability shall not be negatived by the manner in which the invention was made.
20
21   Claims 1, 4-9 and 15-17 are rejected under 35 U.S.C. 103(a) as being

22   unpatentable over Richmond et al. (US 6,990,592) in view of, Ghys (US 7,076,039).

23   With respect to claims 1, 8, Richmond teaches: A method of monitoring

24   multimedia stream exchange session initialization messages transmitted in packet

25   mode via a monitoring server over a network between a sender terminal and one or

26   more receiver terminals, the method comprising the following steps:

1   Estimating a bit rate value ("rate limit" Richmond column 19 line 43) for at least

2   one packet amongst a plurality of packets of an initialization message ("packet rules

3   may be configured to examine . . . application layer" Richmond column 15 lines 46-50;

4   See also Applicant's specification page 1 line 20) received by the monitoring server;

5   ("packet rules associated with the users may be provisioned to the entry point and

6   applied to packets received from the users" Richmond column 13 line 54)

7   Comparing that value to a predetermined maximum authorized bit rate value for

8   packets of initialization messages; and ("rate limit field 520 may specify a threshold

9   value (e.g., 1 megabyte (MB)). This threshold value may specify a threshold volume of

10   bytes that may be received during a specified temporal interval" Richmond column 19

11   line 43; Also "limit the amount of bandwidth that a user consumes on the network in

12   sending packets corresponding to a particular application" Richmond column 19 line 65)

13   Authorizing transmission of the packet only if the bit rate value for that packet

14   does not exceed the predetermined maximum authorized bit rate value for packets of

15   initialization messages. ("a network device may be configured to drop some or all of the

16   bytes of a packet that contains an amount of [bytes] that exceeds the threshold amount

17   during the unit interval." Richmond column 19 line 59; see also column 15 line 44).

18   Richmond does not specifically teach that the application layer is parsed for

19   initialization packets.

20   Ghys teaches that SIP signaling messages may include user data that could

21   evade prior art billing policies (Ghys column 1 line 55) and that it is therefore necessary

22   to analyze SIP INVITE messages and compare them to a threshold (Ghys column 6 line

1   18). Ghys states that these methods are desirable to prevent theft of service (Ghys

2   column 1 line 48).

3   A person of ordinary skill in the art at the time of invention would have combined

4   Richmond with the teachings of Ghys by including specific SIP messaging parsing of

5   Ghys with the rate limiting rules of Richmond.

6   It would have been obvious at the time the invention was made to a person of

7   ordinary skill in the art to combine Richmond with Ghys in order to prevent theft of

8   service (Ghys column 1 line 48) by controlling usage of network resources by users

9   (Richmond column 1 line 26).

10   With respect to claims 4, 9, Richmond teaches: monitoring messages transmitted

11   in packet mode, implemented by the monitoring server, which also processes packets of

12   session initialization messages. ("the packet rules may be applied to each packet

13   received from the user before any network resources beyond the entry point are used."

14   Richmond column 13 line 47)

15   With respect to claim 5, Richmond in view of Ghys teaches: wherein the packets

16   of the session initialization messages are forcibly routed to the monitoring server

17   consisting of the first processor server through which said session initialization packets

18   pass. ("the packet rules may be applied to each packet received from the user before

19   any network resources beyond the entry point are used." Richmond column 13 line 47;

20   Also, Call Server CS described with Signaling Message Analysis Means, Ghys column

21   4 lines 12-22)

1   With respect to claim 6, Richmond in view of Ghys teaches: wherein the

2   monitoring server consists of a session initialization packet processor server of the

3   network, and routing rules are defined to ensure that the packets of the session

4   initialization messages systematically pass in transit through the processor server. ("the

5   packet rules may be applied to each packet received from the user before any network

6   resources beyond the entry point are used." Richmond column 13 line 47; Also, Call

7   Server CS described with Signaling Message Analysis Means, Ghys column 4 lines 12-

8   22)

9   With respect to claim 7, Richmond in view of Ghys teahes: monitoring messages

10   transmitted in packet mode, wherein the session initialization messages transmitted use

11   the Session Initialization Protocol (SIP). ("the packet rules may be applied to each

12   packet received from the user before any network resources beyond the entry point are

13   used." Richmond column 13 line 47; Also, Ghys column 4 line 20).

14   With respect to claims 15-17, Richmond in view of Ghys teaches: monitoring

15   messages transmitted in packet mode, implemented by the monitoring server, which

16   also processes packets of session initialization messages. ("the packet rules may be

17   applied to each packet received from the user before any network resources beyond the

18   entry point are used." Richmond column 13 line 47; Also, Ghys column 4 line 20).

19

20   Claims 2, 11 and 13 are rejected under 35 U.S.C. 103(a) as being unpatentable

21   over Richmond et al. (US 6,990,592) in view of, Ghys (US 7,076,039), in further view of

22   Vaid et al. (US 6,502,131).

1   Concerning claim 2, Richmond in view of Ghys teaches: monitoring messages

2   transmitted in packet mode, wherein a transmission channel associated with specific

3   maximum authorized bit rate value for packets of initialization messages is defined. ("a

4   network device may be configured to drop some or all of the bytes of a packet that

5   contains an amount of [bytes] that exceeds the threshold amount during the unit

6   interval." Richmond column 19 line 59; see also column 15 line 44).Richmond in view of

7   Ghys does not teach: for each pair comprising a sender terminal and a receiver

8   terminal.

9   Vaid discusses endpoint defined (Sender, receiver. Vaid column 27 line 32)

10   bandwidth limits ("bandwidth allocated" Vaid column 27 line 33.)

11   A person of ordinary skill in the art would have modified the rules of Richmond in

12   view of Ghys to include the endpoint defined bandwidth of Vaid in addition to the layer

13   classification of Ghys.

14   It would have been obvious at the time the invention was made to a person of

15   ordinary skill in the art to modify the invention in order to allow for more atomic

16   definitions, as done in Vaid.

17   With respect to claims 11 and 13 Richmond in view of Ghys in view of Vaid

18   teaches: monitoring messages transmitted in packet mode, implemented by the

19   monitoring server, which also processes packets of session initialization messages.

20   ("the packet rules may be applied to each packet received from the user before any

21   network resources beyond the entry point are used." Richmond column 13 line 47; Also,

22   Ghys column 4 line 20).

1

2   Claims 3, 12 and 14, are rejected under 35 U.S.C. 103(a) as being unpatentable

3   over Richmond et al. (US 6,990,592) in view of, Ghys (US 7,076,039), in view of Official

4   Notice.

5   Concerning claim 3, Richmond in view of Ghys teaches: storing the sizs of the

6   lastest packets of the initialization message sent by the sender terminal to the receiver

7   terminal and received by the monitoring server during a predetermined duration; ("Rate

8   limit field may specify a threshold value . . . threshold volume of bytes that may be

9   received during a specified temporal interval" column 19 line 50). Richmond also

10 discloses that in a standard case where the time interval is one second, the rate data

11 structure is generally a rate of bytes per unit of time (Richmond column 19 line 55).

12 Richmond in view of Ghys does not teach: dividing the sum of the sizes of the stored

13 packets by the predetermined duration. It is however common knowledge that rates are

14 a measure of a metric over a unit of time (conceptually as shown in Richmond). Official

15 notice is taken thereof. Therefore if the bandwidth limiting was desired to be in bytes per

16 second, and the 'specified temporal interval' was larger than one second (as

17 contemplated by Richmond), it would have been obvious to divide the threshold volume

18 by the number of seconds. It would have been obvious at the time the invention was

19 made to a person of ordinary skill in the art in order to obtain bytes per second.

20   With respect to claims 12 and 14 Richmond in view of Ghys in view of in view of

21 Official Notice teaches: monitoring messages transmitted in packet mode, implemented

22 by the monitoring server, which also processes packets of session initialization

23 messages. ("the packet rules may be applied to each packet received from the user

1   before any network resources beyond the entry point are used." Richmond column 13

2   line 47; Also, Ghys column 4 line 20).

3

4

5   Claim 10 is rejected under 35 U.S.C. 103(a) as being unpatentable over

6   Richmond et al. (US 6,990,592) in view of, Ghys (US 7,076,039), in view of Vaid et al.

7   (US 6,502,131), in view of Official Notice.

8   Concerning claim 10, Richmond in view of Ghys in view of Vaid, as combined in

9   claim 2, teaches: storing the sizes of the latest packets of the initialization message sent

10   by the sender terminal to the receiver terminal and received by the monitoring server

11   during a predetermined duration; ("Rate limit field may specify a threshold value . . .

12   threshold volume of bytes that may be received during a specified temporal interval"

13   column 19 line 50). Richmond also discloses that in a standard case where the time

14   interval is one second, the rate data structure is generally a rate of bytes per unit of time

15   (Richmond column 19 line 55). Richmond in view of Ghys in view of Vaid does not

16   teach: dividing the sum of the sizes of the stored packets by the predetermined

17   duration. It is however common knowledge that rates are a measure of a metric over a

18   unit of time (conceptually shown in Richmond). Official notice is taken thereof. Therefore

19   if the bandwidth limiting was desired to be in bytes per second, and the 'specified

20   temporal interval' was larger than one second (as contemplated by Richmond), it would

21   have been obvious to divide the threshold volume by the number of seconds. It would

1   have been obvious at the time the invention was made to a person of ordinary skill in

2   the art in order to obtain bytes per second.

3

1   Any inquiry concerning this communication or earlier communications from the

2   examiner should be directed to Michael Chao whose telephone number is (571)270-

3   5657. The examiner can normally be reached on 8-4 Monday through Thursday.

4   If attempts to reach the examiner by telephone are unsuccessful, the examiner's

5   supervisor, Jeffrey Pwu can be reached on (571)272-6798. The fax phone number for

6   the organization where this application or proceeding is assigned is 571-273-8300.

7   Information regarding the status of an application may be obtained from the

8   Patent Application Information Retrieval (PAIR) system. Status information for

9   published applications may be obtained from either Private PAIR or Public PAIR.

10   Status information for unpublished applications is available through Private PAIR only.

11   For more information about the PAIR system, see http://pair-direct.uspto.gov. Should

12   you have questions on access to the Private PAIR system, contact the Electronic

13   Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a

14   USPTO Customer Service Representative or access to the automated information

15   system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

16
     /M. C./
     Examiner, Art Unit 2442

     /Jeffrey Pwu/
     Supervisory Patent Examiner, Art Unit 2446
17